

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Federal Building Courthouse; 300 Quarropas Street; White Plains, NY 10601-4150

John and Kimberly Vidurek

Plaintiff(s)

- Against -

John Koskinen, Et al

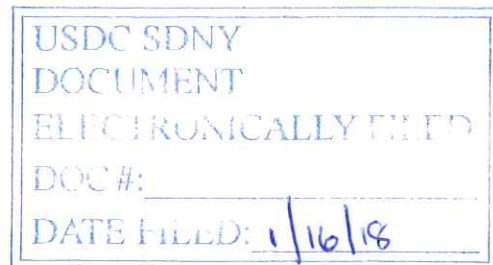
Defendants

Jurisdiction: Court of Record, under  
the rules of Common Law<sup>1</sup>

Case no. 17-cv-09064-VB

RESPONSE TO  
MOTIONS TO DISMISS

NEW YORK STATE     )  
                                  ):SS.  
DUTCHESS COUNTY    )



Plaintiffs respond to Defendants (1) Guy Chiarello, President of First Data Merchant Service Corporation and (2) Michael J Quinn President and CEO of Rhinebeck Savings Bank. Both of which upon information and belief shared plaintiff's private papers and effects without a Warrant issued upon probable cause and supported by Oath or affirmation particularly describing the place to be searched and the persons or things to be seized and in violation of the Safe Harbor Act.

**SERVICE UPON DEFENDANTS**

Service was made upon all defendants at their place of business, which is acceptable by the court rules, because defendants acted under color of law from their place of business. Furthermore plaintiffs have no way of knowing defendants residence.

<sup>1</sup> "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

Therefore, service was made as per the following (2) Federal Rules of Civil Procedure and Proof of service was filed with the court on November 21, 2017:

Rule 4 (e) SERVING AN INDIVIDUAL WITHIN A JUDICIAL DISTRICT OF THE UNITED STATES ... a person ... may be served in a judicial district of the United States by: (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; Thereby As per NYCPLR §308 Personal service upon a natural person shall be made by any of the following methods: 1. by delivering the summons within the state to the person to be served; by either mailing the summons to the person to be served at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business whereas proof of such service shall be filed with the clerk of the court; and in this fashion service was made upon the defendants.

Rule 5 Serving and Filing Pleadings and Other Papers (b) SERVICE: HOW MADE. (2) Service in General. A paper is served under this rule by: (A) handing it to the person; (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; (C) mailing it to the person's last known address in which event service is complete upon mailing;

**EVERY RIGHT WHEN WITH-HELD MUST HAVE A REMEDY  
AND EVERY INJURY ITS PROPER REDRESS**

*"William Blackstone - a legal maxim - Every right when with-held must have a remedy, and every injury it's proper redress. ... In the third volume of his Commentaries, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law. "In all other cases," he says, it is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded. And afterwards, page 109 of the same volume, he says, I am next to consider such injuries as are cognizable by the Courts of common law. And herein I shall for the present only remark that all possible injuries whatsoever that did not fall within the exclusive cognizance of either the ecclesiastical, military, or maritime tribunals are, for that very reason, within the cognizance of the common law courts of justice, for it is a*

*settled and invariable principle in the laws of England that every right, when withheld, must have a remedy, and every injury its proper redress"... 5 U.S. 137, Marbury v. Madison*

55 **TORT**: *"a private or civil wrong or injury; a wrong independent of contract". 1 Hill, Torts 1. "A violation of a duty imposed by general law or otherwise upon all persons occupying the relation to each other which is involved in a given transaction." Coleman v. California Yearly Meeting of Friends Church, 27 Cal.App.2d 579, 81 P.2d 469, 470. "There -must always be a violation of some duty owing to plaintiff, and generally such duty must arise by operation of law and not by mere agreement of the parties." Diver v. Miller, Del.Super., 148 A. 291, 293.*

There are *"Three elements of every tort action are: Existence of legal duty from defendant to plaintiff, breach of duty, and damage as proximate result."* City of Mobile v. McClure, 221 Ala. 51, 127 So. 832, 835.

65 Plaintiffs have an unalienable right of redress and have clearly stated in the Action filed on November 20, 2017 the aforesaid required three elements; see Action at Law lines 174-246.

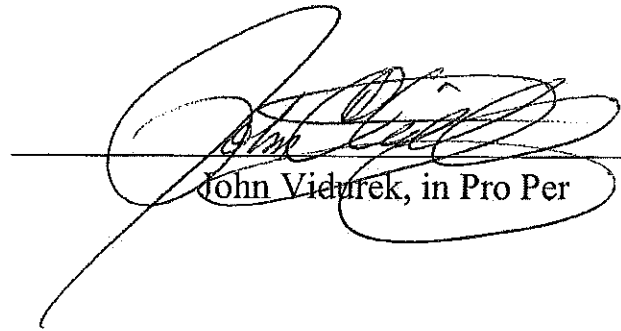
## **EXHIBITS**

All filed exhibits address the Action between the plaintiff and the government agents and agency and thereby have no bearing upon the financial institution defendants.

70 Upon information and belief all financial institution defendants shared plaintiff's papers and effects without a Warrant issued upon probable cause and supported by Oath or affirmation particularly describing the place to be searched and the persons or things to be seized. This is the issue at hand between the plaintiffs and said defendants either they violated the law and trust or they didn't. Therefore their response should be simply yea  
75 or nay under oath.

SEAL

80

  
John Vidurek, in Pro Per

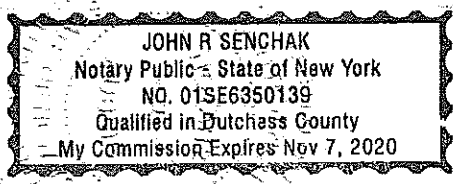
**NOTARY**

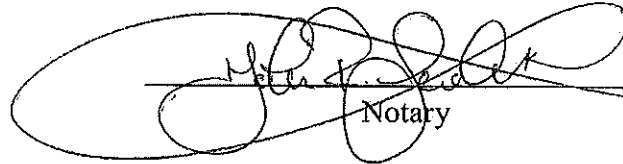
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New York State, Dutchess County on this 10<sup>th</sup> day of January 2018 before me John R. Senchak, the subscriber, personally appeared John Vidurek to me known to be the living man describe in and who executed the forgoing instrument and sworn before me that he executed the same as his free will act and deed.

(Notary Seal)

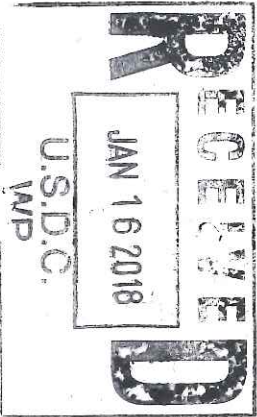
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Notary

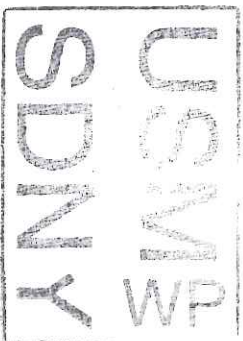
My commission expires: 11/7/2020

John Vidurek  
1 South Drive  
Hyde Park, NY. 12538



*Court Clerk*

U.S. DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NY.  
Federal Building Courthouse;  
300 Quatropas Street;  
White Plains, NY 10601-4150



ALL PAYMENTS TO  
SDNY 10601-4150

